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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,936	02/17/2006	John Haig Marsh	305832-00115	8326
64770 7590 07/10/2008 Momkus McCluskey, LLC 3051 Oak Grove Road Suite # 220 Downers Grove, IL 60515-1181				
EXAMINER				
HELLNER, MARK				
ART UNIT		PAPER NUMBER		
3663				
MAIL DATE		DELIVERY MODE		
07/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,936

Applicant(s)

MARSH ET AL.

Examiner

Mark Hellner

Art Unit

3663

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-9, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 2-5, 10-14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-9, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakatsuka et al (4,872,175).

Nakatsuka et al disclose a semiconductor laser device comprising: an optically active region (4, 5) for generating and confining optical radiation and having an output end for emitting an output beam from the optically active region; a lens region (7) positioned to receive an output beam from the non-lens part of the active region (4, 5), the lens region having a reduced refractive index and increases bandgap (the lens function of the pit 7 in the active 5 serves to reduce refractive index and increase bandgap) with respect to the adjacent non-lens part of the active region, the lens region comprising a quantum well intermixed region (column 4, lines 31 and 32 teach that the GaAlAs layer 8 be buried as lens in the pit 7).

The structure recited above reads on claim 1.

A GaAlAs layer can be either active or passive depending on the amount of stimulation, thus allowing the pit (7) as filled by layer (8) to broadly read on claims 6 and 7.

Claim 8 is taught by figure 1.

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Claim 9 reads of the transition from the active region (4, 5) to the lens (7).

The device of Nakatsuka et al is disclosed as a laser, thus anticipating claims 15 and 16.

Claims 2-5, 10-14, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to Mark Hellner at telephone number 571 272 6981.

/Mark Hellner/

Primary Examiner, Art Unit 3663